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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------------------|-------------|----------------------|---------------------|------------------|
| 10/802,170 | 03/17/2004 | Kimihiro Kikuchi | 9281-4767 | 3840 |
| 7590 10/12/2007 | | | | |
| Brinks Hofer Gilson & Lione | | | | |
| P.O. Box 10395 | | | | |
| Chicago, IL 60610 | | | | |
| | | | EXAMINER | |
| | | | LAZORCIK, JASON L | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1791 | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|--|--------------------------------------|--|--|
| <p align="center">Advisory Action Before the Filing of an Appeal Brief</p> | Application No. 10/802,170 | Applicant(s) KIKUCHI, KIMIHIRO | |
| | Examiner Jason L. Lazorcik | Art Unit 1791 | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 October 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-5.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.


 ERIC HUGO
 PRIMARY EXAMINER

Continuation of 3. NOTE: Applicants amendment has introduced a new limitation in independent claim 1 wherein, during the press forming step, the application of press force to the optical element material causes the "optical element material to expand outwardly in a convex shape". The instant limitation alters the scope of the instant claim in a manner which has not been previously considered. Applicants proposed amendments will therefore necessitate further search and/or consideration on the part of the Examiner.

Applicant has provided further amendments to independent claim 1 with the intent of addressing previously noted deficiencies with respect to clarity and definiteness under 35 U.S.C. 112, second paragraph. It is the Examiners assesment that the issues have not been adequately addressed in the proposed amendments. A summary of the state of the rejection follows with the intent to clarifying the basis for the rejection.

First, Applicant describes a mass of "optical element material" having a volume which is in excess of a required volume of the optical element to be produced by the claimed manufacturing method. In further defining the volume of optical element material, Applicant subdivides this overall volume of optical element material into discrete sub-volumes. The first sub- volume is equivalent to the desired volume of the produced optical element which applicant terms "an initial volume". The second sub-volume, which applicant terms the "surplus volume", is that poriton of the optical element material which is in excess of the "initial volume" of optical element material.

Now, as claimed, the Applicant has distinctly identified two sub-volume elements of a larger body. Applicants claim language then dictates that during the deformation process, only the surplus volume of the optical element material is received by the deformable poriton of the holder while only the "initial volume" remains to form the optical element. The claimed process appears to inherently require that a deterministic separation of first and second sub-volumes occurs during the pressing operation which runs counter to Applicants disclosure.

In order to advance the state of prosecution, Applicant is invited to directly phone the Examiner regarding the outstanding rejection of claims under 35 USC 112, second paragraph.